

BOMBAY ACT No. LXI OF 1947.¹

[THE BOMBAY PRIMARY EDUCATION ACT, 1947.]

[29th January 1948]

Amended by Bom. 8 of 1949.

" " " 46 of 1949.

" " " 8 of 1950.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 9 of 1951.

" " " 39 of 1951.

" " " 46 of 1951.

" " " 25 of 1952.

" " " 33 of 1953.

" " " 26 of 1954.

" " " 67 of 1954.

An Act to provide for compulsory primary education and to make better provision for the management and control of primary education in the Province of Bombay.

WHEREAS it is the duty of Government to secure the development and expansion of primary education; and whereas it is the declared policy of Government that universal, free and compulsory primary education should be reached by a definite programme of progressive expansion; and whereas it is expedient to make better provision for the development, expansion, management and control of primary education in the Province of Bombay; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bombay Primary Education Act, 1947. Short title and extent.
- (2) It extends to the whole of the ²[State] of Bombay except ³[Greater Bombay].
- (3) It shall come into force on such date as the ⁴[State] Government may, by notification in the *Official Gazette*, appoint.
2. In this Act unless there is anything repugnant in the subject or context,— Definitions.
 - (1) "Administrative Officer" means an officer appointed under section 21 or 22;
 - (2) "Approved school" means a primary school maintained by the ⁴[State] Government or by a school board or by an authorized municipality or which is for the time being recognized as such by a school board or by the ⁴[State] Government or by an officer authorized by it in this behalf;
 - (3) "Area of compulsion" means the area in which primary education up to any standard is compulsory;
 - (4) "Area of an authorized municipality" means the area comprised within the limits of such municipality and shall include the area of a non-authorized municipality approved schools in which vest in or are controlled by the authorized municipality;
 - (5) "To attend an approved school" means to be present for instruction at such school on such days and at such time and for such period on each day as may be required under the regulations framed by the school board;
 - (6) "Authorized Municipality" means a municipality which is authorised by the ⁴[State] Government under sub-section (1) of section 16 to control all approved schools within its area;

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 328; for Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1947, Vol. XI; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1947, Vol. XIII.

² This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

³ These words were substituted for the original by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

⁴ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(7) "Child" means a boy or girl whose age is not less than six and not more than fourteen years at the beginning of the school year.

Explanation.—For the purposes of this definition, "school year" shall mean the year beginning with such date as the school board may, with the sanction of the Director, fix;

(8) "Director" means ¹[the Director of Education] for the ²[State] of Bombay;

(9) "District" in clause (h) of section 5, in section 6, sub-section (3) of section 10, and section 19 means the district as formed under the Bombay Land Revenue Code, 1879, and elsewhere the area comprised in a district so formed ^{Bom. V of 1879.} excluding the areas of authorized municipalities, and cantonments;

(10) "District School Board" means a school board constituted for a district under section 3;

(11) "Municipal School Board" means a school board constituted for the area of an authorized municipality under section 3;

(12) "Non-authorised Municipality" means a municipality other than an authorized municipality;

(13) "Parent" includes a guardian or any person who has the custody of a child;

(14) "Prescribed" means prescribed by the rules made under this Act;

(15) "Primary Education" means education in such subjects and up to such standards, as may be determined by the ³[State] Government from time to time;

(16) "Primary Education Fund" means the fund maintained under section 44;

(17) "Primary School" means a school or a part of a school in which primary education up to any standard is imparted;

(18) "³[State] Board of Primary Education" means the board constituted under section 58;

(19) "School Board" means a district school board or a municipal school board, as the case may be.

CHAPTER II.

CONSTITUTION OF DISTRICT AND MUNICIPAL SCHOOL BOARDS.

School
Boards.

3. (1) For each district there shall be a district school board.

(2) For each area of an authorized municipality there shall be a municipal school board.

Constitution
of school
boards.

4. (1) Each school board shall consist of members not less than twelve and not more than sixteen in number.

(2) Of these members not less than two and not more than three in number shall be appointed by the ³[State] Government.

(3) The number of members under sub-sections (1) and (2) shall be determined by the ³[State] Government from time to time.

(4) Of the members appointed by the ³[State] Government under sub-section (2) one shall be an officer of the ³[State] Government; and the remaining shall be persons (i) who shall have passed the matriculation examination or shall possess any other equivalent or higher educational qualification which the ³[State] Government may specify in this behalf or (ii) who have had experience of the system or institutions of primary education.

(5) (a) The members other than those appointed by the ³[State] Government shall be elected by the district local board or the authorized municipality as the case may be:

¹ These words were substituted for the words "the Director of Public Instruction" by Bom. 39 of 1951, s. 3, Second Schedule.

² This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

³ This word was substituted for the word "Provincial", *ibid.*

(3) If any non-authorized municipality is at any time authorized by the ¹[State] Government to control all approved schools within its area, the said municipality shall thereafter be an authorized municipality. Thereupon all properties moveable or immovable vesting in, held by or under the control of a district school board or an authorized municipality for the purposes of primary education in such area shall vest in, be held by or be under the control of such first mentioned municipality; and all existing and future rights, liabilities, powers and duties in respect of primary school teachers and other persons employed by such district school board or authorized municipality for the purposes of primary education in such area shall also vest in and be performed or exercised by the said first mentioned municipality.

CHAPTER V.

ADMINISTRATIVE MACHINERY.

20. (1) Every district school board with the approval of the ¹[State] Government and every authorized municipality shall maintain an adequate staff of District school board, Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, primary authorized municipality school teachers and inferior servants and other staff (including engineering staff), to maintain adequate as may in the opinion of the ¹[State] Government be necessary for the administration, management and control of approved schools within its area ²[or for enabling staff, pay, etc, a Primary Schools Panchayat constituted under section 36B to discharge its functions under this Act.]

(2) The staff maintained under sub-section (1) shall be servants of the district school board or of the authorized municipality as the case may be, and shall receive their pay, allowances, ³* * gratuities and pensions from its primary education fund. ⁴[Such staff maintained by a district school board shall receive their provident fund from the fund established under section 46A and the primary school teachers maintained by an authorized Municipality shall receive their provident fund from the primary education fund.]

⁵[(2A) The rates of subscriptions and contributions and other conditions of the provident fund established by the ¹[State] Government under section 46A for the members of the staff maintained by district school boards ⁶* * * shall be such as may be prescribed.]

(3) The rates of the pay and allowances and terms of employment in respect of ⁷[all the members of the staff maintained by a district school board and of the primary school teachers maintained by an authorized municipality] shall be as fixed from time to time by the ¹[State] Government.

(4) The ¹[State] Government may from time to time prescribe the duties to be performed by the staff maintained under sub-section (1).

21. (1) For every school board there shall be an Administrative Officer. He Administrative shall be the chief executive officer of the board; his powers and duties shall be as prescribed. Officer.

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

² These words, figures and letter were added by Bom. 67 of 1954, s. 2.

³ The words "provident fund" were deleted by Bom. 46 of 1951, s. 2 (1).

⁴ This portion was added by Bom. 33 of 1953, s. 2(i).

⁵ This sub-section was inserted by Bom. 46 of 1951, s. 2(2).

⁶ The words "and for the primary school teachers maintained by authorised municipalities" were deleted by Bom. 33 of 1953, s. 2(ii).

⁷ These words were substituted for the words, brackets, figures and letter "the staff and teachers referred to in sub-section (2A)", *ibid.*, s. 2(iii).

(2) The Administrative Officer shall be appointed by and shall be a servant of the ¹[State] Government. He shall draw his pay and allowances from the ¹[State] revenues.

Delegation of power to appoint Administrative Officer to certain authorized municipalities. 22. (1) Notwithstanding the provisions of section 21, the ¹[State] Government may by notification in the *Official Gazette* delegate the power to appoint an Administrative Officer to an authorized municipality which is a municipality constituted under the Bombay Municipal Boroughs Act, 1925, and the annual ^{Bom.} expenditure of which on primary education is not less than Rs. 1,00,000 for three ^{XVIII} of financial years immediately preceding the date of the notification. The Adminis- 1925. trative Officer so appointed shall be the servant of the authorized municipality and shall draw his pay, allowances, provident fund, gratuity and pension from its primary education fund.

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

32. In every area of compulsion, the parent of every child to whom a scheme applies shall in the absence of a reasonable excuse as hereinafter provided and if such parent and child ordinarily reside in such area cause such child to attend an approved school in such area.

Duty of parent to cause children to attend school.

33. A parent shall be deemed to have a reasonable excuse for failure to cause a child to attend an approved school in any of the following cases :—

Meaning of reasonable excuse.

(a) where the child is prevented from attending school by sickness, infirmity or other unavoidable cause ;

(b) where the child is receiving, otherwise than in an approved school, instruction which in the opinion of the school board is efficient or has received from the school board a certificate of having already completed his primary education up to the standard included in the scheme ;

(c) where there is no approved school within the distance fixed by the school board under section 13 or 18, as the case may be ;

(d) where after due application, entrance to an approved school has been refused to the child and there is no other approved school to which he can be admitted within the distance fixed under section 13 or 18, as the case may be, until such time as the parent is notified by the Administrative Officer that the child can be admitted ;

(e) where there is no approved school in the locality in which instruction is given in the language spoken by the child ;

(f) where there is no approved school in the locality to which the parent can send the child without exposing him to religious instruction to which the parent objects.

34. (1) Where the school board is satisfied that the parent of any child who is bound under the provisions of section 32 to cause such child to attend an approved school, has failed to do so, the school board after giving the parent an opportunity of being heard and after such inquiry as it considers necessary may make an order directing the parent to cause such child to attend an approved school on and from a date which shall be specified in the order.

Issue of attendance order.

(2) This power may be delegated by the school board to any of its members or to the Administrative Officer or other officer of the school board.

(3) Any parent aggrieved by an order made under sub-section (1) may, within thirty days from the date of such order, appeal to the Educational Inspector of the division who may confirm or rescind the order as he deems fit.

35. (1) If an order with reference to a child has been made under sub-section (1) of section 34 against any parent and if such parent fails to comply with the provisions of section 32 with respect to such child on or after the date specified in such order, unless such order is rescinded in an appeal made under sub-section (3) of the said section 34, such parent shall, on conviction, be punished with fine not exceeding two rupees ; and in case such failure continues after such conviction, he shall also be punished with fine of eight annas for every day on which the failure continues or is repeated.

Penalty for failure to cause child to attend approved school.

(2) No court shall take cognizance of an offence under sub-section (1) except on [a complaint presented in person or sent by registered post] by the Administrative Officer or any other officer authorised by him in this behalf].

¹ Section 35 was substituted for the original by Bom. 25 of 1952, s. 6.

² These words were substituted for the words "the complaint filed" by Bom. 67 of 1954, s. 3.

Penalty for employing child to whom scheme applies.

36. (1) Whoever knowingly takes into his employment, either on his own behalf or on behalf of any person, any child in respect of whom the provisions of section 32 apply, so as to interfere with the education or instruction of such child shall, on conviction, be liable to a fine not exceeding twenty-five rupees.

(2) No court shall take cognizance of an offence under this section except on ¹[a complaint presented in person or sent by registered post by] the Administrative Officer or any other officer authorized by him in this behalf, and before making any complaint under this section against any person the Administrative Officer or such officer shall unless such person has been previously convicted under sub-section (1) cause a warning to be given to such person.

Courts competent to try offences under sections 35 and 36.

²**36A.** For the purpose of taking cognizance of an offence under sub-section (1) of section 35 against a parent or against a person under sub-section (1) of section 36,

(1) if such parent or person resides in a town or village where a judicial Magistrate holds his court, the court of such Magistrate,

(2) if such parent or person resides within the limits of the jurisdiction of a nyaya panchayat which has been empowered to take cognizance of and try such offence under sub-section (2) of section 37 read with clause (f) of section 41 of the Bombay Village Panchayats Act, 1933, such nyaya panchayat, and

(3) if such parent or person resides elsewhere, the Primary Schools Panchayat constituted under section 36B within the limits of the jurisdiction of which such parent or person resides,

Bom. VI of 1933.

shall be the court competent to take cognizance of such offence.

Constitution of Primary Schools Panchayat; its powers and procedure.

36B. (1) The State Government may by notification in the *Official Gazette* constitute a Primary Schools Panchayat for the trial of offences punishable under sections 35 and 36 in the areas referred to in clause (3) of section 36A.

(2) The Primary Schools Panchayat constituted under sub-section (1) shall consist of three members appointed by the State Government one of whom shall be the Chairman. The qualifications of the members shall be such as may be prescribed. The members so appointed shall hold office during the pleasure of the State Government.

(3) Two members shall form a quorum for the disposal of the business of the Primary Schools Panchayat.

(4) Any vacancy of the member of the Primary Schools Panchayat shall be filled in as early as practicable :

Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.

(5) The Primary Schools Panchayat shall, except as otherwise provided in this Act, in respect of cases relating to an offence punishable under section 35 or section 36, have the same powers and shall follow the same procedure as is followed by a nyaya panchayat in respect of such offence under Chapters VI, VII and VIII of the Bombay Village Panchayats Act, 1933, and the provisions of the said Chapters shall *mutatis mutandis* apply in respect of such cases. The court of the judicial Magistrate taking cognizance of such offence shall try the case summarily in the manner provided in section 263 of the Code of Criminal Procedure, 1898.

Bom. VI of 1933.

¹ These words were substituted for the words "the complaint of" by Bom. 67 of 1954, s. 4.

² Sections 36A to 36D were inserted *ibid.*, s. 5.

36C. Where the parent of a child has failed to cause such child to attend the approved school in pursuance of a direction given by the school board under sub-section (1) of section 34, the Head Master of such school shall issue a certificate to the effect that such parent has failed to cause the child to attend the approved school in compliance with such direction and such certificate shall, until the contrary is proved, be presumed to be conclusive evidence of such failure in a prosecution against the parent under section 35.

Certificate of Head Master of approved school to be conclusive evidence of parent's failure to comply with section 32.

36D. Every prosecution under section 35 or 36 pending before any Court in any area on the date on which a Primary Schools Panchayat is constituted for such area under section 36B and all proceedings arising from, and incidental to, any such prosecution shall be tried, heard and determined by such Court or any other Court having jurisdiction to try, hear and determine the same, as if no such Primary Schools Panchayat had been constituted for such area.]

Saving of pending proceedings.

XLV
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1860.

[37. Every Administrative Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.]

Administrative Officer to be public servant.

CHAPTER VII.

APPROVED SCHOOLS.

38. The subjects, curricula, books and standards of teaching of approved schools shall be such as may from time to time be specified by the ²[State] Government.

Subjects, curricula, etc., of approved schools.

39. (1) Every primary school, other than a primary school maintained by the ²[State] Government or by a school board or by an authorized municipality, which fulfils the conditions prescribed in this behalf shall be entitled to recognition as an approved school.

Recognition of and grants to approved schools under private management.

(2) Such recognition shall be given by the school board or by the ²[State] Government or by an officer authorized by it in this behalf; and the manner in which grant-in-aid is to be given to such approved school shall be as prescribed.

40. (1) Every approved school shall be open during the school hours to inspection by the inspecting officers of the ²[State] Government for the purpose, in particular of ascertaining—

Inspection of approved schools; returns.

- (a) whether instruction is given in accordance with the provisions of section 38;
- (b) whether the provisions of this Act for the compulsory attendance of children are being carried out;
- (c) whether the health of the school children is satisfactory;
- (d) whether the instruction given is not of a pernicious nature;
- (e) whether the registers and records are being maintained as required by the Director.

(2) The Administrative Officer and the manager of an approved school shall furnish such returns and supply such information as the Director may from time to time require, and shall give reasonable facilities to officers appointed under sub-section (1) of section 48 and to any officer specially deputed under this sub-section by the Director in the discharge of their duties.

¹ This section was substituted for the original by Bom. 36 of 1949, s. 8.

² This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.